

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

SHANEIKA GERMANY

Plaintiff,

v.

JOSEPH MANUEL MOORE and
KYZO TRANSPORTATION, LLC

Defendants.

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CIVIL ACTION NO. 4:22-cv-958

**DEFENDANT KYZO TRANSPORTATION, LLC, AND
JOSEPH MANUEL MOORE'S NOTICE OF REMOVAL**

BACKGROUND

1. This is a personal injury action arising from a motor vehicle accident that occurred in Harris County, Texas, on or about January 25, 2022.¹ Plaintiff Shaneika Germany claims she suffered personal injuries as a result of the alleged negligence of Defendants.

STATE COURT ACTION

2. Plaintiff Shaneika Germany sued Defendants Kyzo Transportation, LLC and Joseph Manuel Moore on February 19, 2022.² The case was filed in the 165th Judicial District Court of Harris County, Texas under cause number 2022-10438, case style *Shaneika Germany v. Joseph Manuel Moore and Kyzo Transportation*.³

¹ See Ex. C (Plaintiff's Original Petition)

² See *id.*

³ *Id.*

JURISDICTION

3. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332(a) because this is a civil action in which the amount in controversy exceeds \$75,000, exclusive of interests and costs, and no defendant is domiciled in the same state as Plaintiff. Furthermore, under 28 U.S.C. § 1441(b)(2), no defendant is a citizen of Texas where this action was brought.

4. According to the Plaintiff's Original Petition, Shaneika Germany is a resident of Texas and seeks monetary relief of "\$250,000.00 or less, excluding interest, statutory or punitive damages and penalties, and attorney's fees and costs" ⁴

5. Defendant Joseph Manuel Moore is a resident of New Jersey. ⁵

6. Defendant Kyzo Transportation, LLC has its principal place of business in New Jersey. ⁶ Furthermore, its two members, Irene Kyedrebeogo and Ibrahim Zoungrana, both live in New Jersey. ⁷

7. For these reasons, the amount-in-controversy and diversity requirements of 28 U.S.C. § 1332(a) are met, and the Court has original jurisdiction over this action.

TIMELINESS

8. After Plaintiff filed her Original Petition on February 19, 2022, Defendant Kyzo Transportation, LLC received the citation on or about March 2, and Defendant Joseph Moore was served on or about March 8. Under 28 U.S.C. § 1446(b)(1), this Notice of Removal is timely and proper.

⁴ See Ex. C (Plaintiff's Original Petition)

⁵ *Id.*

⁶ Ex. F (Kyzo Transportation Annual Report Certificate).

⁷ *Id.*

**INSUFFICIENCY OF PLEADINGS:
RULE 12(e) MOTION FOR MORE DEFINITE STATEMENTS**

9. Plaintiff asserts claims of negligent hiring, training, retention, control, supervision, and entrustment of a vehicle against Defendant Kyzo Transportation, LLC, but alleges no facts to support these claims against the company.⁸ Defendants request that Plaintiff be ordered to replead to provide fair notice of the factual basis of her direct negligence claims against Defendant Kyzo Transportation, LLC.

10. Plaintiff also asserts that the “\$250,000 or less” sought *excludes* “punitive damages and penalties,” even though gross negligence is not pled.⁹ Defendants request that Plaintiff be ordered to replead to clarify whether she is seeking punitive damages or not, and if so, what grounds are alleged for any gross negligence claims.

CONDITIONS PRECEDENT

11. Defendant Kyzo Transportation, LLC, and Joseph Moore have tendered the required filing fee to the Clerk of the United States District Court for the Southern District of Texas, Houston Division, along with this Notice of Removal. Defendant will promptly file a copy of this Notice of Removal with the Harris County Clerk and will provide notice to Plaintiff through her counsel of record.

12. Copies of all executed process, pleadings, and orders filed in state court, as well as the docket sheet, an index of matters being filed, and list of counsel of record accompany this notice.¹⁰

⁸ Ex. C at 6.

⁹ *Id.* at 3.

¹⁰ Ex. E

CONDITIONAL REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

13. If Plaintiff contests this removal, Kyzo Transportation, LLC, and Joseph Moore request (1) a hearing regarding this Court's jurisdiction over, and the propriety of removal of, this matter; (2) the opportunity to present evidence demonstrating the existence of federal jurisdiction and the propriety of removal; and (3) leave to conduct limited discovery related to those issues.

JURY DEMAND

14. Defendant demands a jury trial.

CONCLUSION

15. Defendants Kyzo Transport, LLC and Joseph Moore respectfully request that this action be removed from the 165th Judicial District Court of Harris County, Texas to this Court.

Respectfully submitted,

THE FUENTES FIRM, P.C.

/s/Nicholas Van Cleve

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ATTORNEY FOR DEFENDANTS

KYZO TRANSPORTATION, LLC

AND JOSEPH MANUEL MOORE

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served on the following counsel of record through the Court's ECF system on March 24, 2022:

John Papapavlou
Attorney for Plaintiff

john@pmtxlaw.com

/s/ *Nicholas Van Cleve*
NICHOLAS VAN CLEVE